

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DANIEL KLEEBERG, et al.,

Plaintiffs,

-against-

WENDY EBER, in her individual capacity and as
Executrix u/w/o LESTER EBER, et al.,

Defendants,

-and-

EBER BROS. & CO., INC., et al.

Nominal Defendants,

-and-

CANANDAIGUA NATIONAL BANK &
TRUST COMPANY,

Nominal Intervening
Defendant.

Civil Action No. 16-CV-9517(LAK)(KDP)

NOTICE OF APPEAL

Notice is hereby given that defendants Wendy Eber, in her individual capacity and as Executrix u/w/o Lester Eber, and Alexbay, LLC, f/k/a Lester Eber, LLC, through their counsel, hereby appeal to the United States Court of Appeals for the Second Circuit from:

- (i) the Final Judgment, dated and entered April 7, 2023 (the “Judgment”) (Doc. No. 455), annexed hereto as Exhibit “1”;
- (ii) the Opinion, dated and entered March 30, 2023 (the “March 30, 2023 Opinion”) (Doc. No. 451), annexed hereto as Exhibit “2”;
- (iii) the Oral Ruling of the Court at a conference on January 26, 2023 (the “January 26, 2023 Oral Ruling”), annexed hereto as Exhibit “3”;

- (iv) the Opinion and Order on Parties' Motion for Reconsideration, dated and entered March 25, 2021 (the "March 25, 2021 Opinion and Order") (Doc. No. 348), annexed hereto as Exhibit "4";
- (v) the Opinion and Order on the Parties' Motions for Partial Summary Judgment, dated and entered August 10, 2020 (the "August 10, 2020 Opinion and Order") (Doc. No. 314), annexed hereto as Exhibit "5";
- (vi) the Memorandum Opinion, dated and entered July 6, 2017 (the "July 6, 2017 Memorandum Opinion") (Doc. No. 57), annexed hereto as Exhibit "6";
- (vii) each and every order of the District Court related to the Judgment; the March 30, 2023 Opinion; the January 26, 2023 Oral Ruling; the March 25, 2021 Opinion and Order; the August 10, 2020 Opinion and Order; and the July 6, 2017 Memorandum Opinion.

Dated: Uniondale, New York
May 5, 2023

FARRELL FRITZ, P.C.

By: /s/ Kevin P. Mulry
Kevin P. Mulry
Attorneys for Defendants Wendy Eber,
in her individual capacity and as Executrix
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TO: All counsel of record
(By ECF)